



**ADDITIONAL INFORMATION**

The following attachments respond to questions raised by the Government Performance and Finance Committee (GPFC) and provide updated information:

1. City & State Enforcement Models
2. TABLE: Side-by-Side Comparison of Paid Sick Leave Laws
3. Employment Standards Enforcement Overview
4. Education, Outreach, & Community Partnerships
5. Equity Impact Statement from the Office of Equity & Human Rights (OEHR)
6. Summary of Primary Changes in TMC 18.10 "Paid Leave"
7. Employment Standards Case Data



**ATTACHMENT 1: CITY & STATE ENFORCEMENT MODELS**

Data from actual cases demonstrated that workplace wide investigations (the City’s current enforcement model) returned thirty-six (36) times the amount of wages/paid sick leave hours that would have been collected by the state if they worked the same caseload. Workplace-wide enforcement also provided remedies to thirty (30) times as many workers than individual investigations would have during the period analyzed.

**Comparison of City & State Enforcement Outcomes**

*Figures based on actual Tacoma case data from February 1, 2016 – July, 28 2017*

	# of Workers receiving owed wages or leave	Value of wages/leave returned to workers
<b>Workplace Wide Enforcement</b>	595	\$168,927
<b>Individual Enforcement</b>	20	\$4,672

*Investigations restoring the rights of the complainant only (State Model) resulted in roughly 3% of the impact of workplace-wide investigations.*

**When individual investigations are used, it can be less expensive for an employer to remain non-compliant.** The \$4,672 that employers would have paid if the City conducted individual investigations is much less than the cost of complete compliance with the law (\$168,927).

**As striking as these figures are, the actual variance between State- and City-led enforcement may be even greater.** The figures used in the analysis assume that the state receives the same volume of complaints as the City. Historically, this has not been the case. L&I indicated that they received just two (2) minimum wage complaints within all Tacoma zip codes in the 2015 fiscal year. By comparison, the City of Tacoma received 42 complaints in the first year of enforcement; roughly half (52%) included an alleged minimum wage violation.

**Academic papers indicate that trust is an essential piece of effective enforcement,** particularly in a complaint-based system like Tacoma’s. Complaint-based investigations rely on a witness being willing to come forward and report violations. We have worked strategically to build this kind of trust with workers. In addition to conducting workplace-wide investigations and offering confidentiality to witnesses, we work with local community partners to reach those who are most likely to be working in lower wage, non-benefitted positions. We seek one-on-one contacts in the community to build relationships with workers.

**In 2017, federal statements related to immigration have created additional barriers to trust** at all levels of government. The City’s rules explicitly indicate that questions will not be asked about a witness’s documentation or right to work, providing a level of security for groups known nationally to be at higher risk for workplace wage violations. Currently, we have a bilingual staff member that allows the City to conduct direct outreach to Spanish-speaking workers and business owners. Academic findings indicate that this work to build trust will increase workers’ willingness to report violations when they take place.

**An Issue of Equity.** Complaint-based systems of enforcement can reflect inequities and result in decreased protections for the most vulnerable workers. Initiating a workplace wide investigation when a complaint is received can restore the rights of precariously-employed workers who may not otherwise come forward.



**ATTACHMENT 2: SIDE-BY-SIDE COMPARISON OF PAID SICK LEAVE LAWS**

There are considerable differences between existing City and State paid sick leave laws. An overview is captured in the following table.

<b>Provision</b>	<b>City of Tacoma</b>	<b>Statewide Initiative 1433</b>
<b>Effective Date</b>	February 1, 2015	January 1, 2018
<b>Accrual rate</b>	Minimum of 1 hour for every 40 worked	Minimum of 1 hour for every 40 worked
<b>Accrual annual limit</b>	24 hours per year	Law sets no limit on accrual.
<b>Carry over annual limit</b>	24 hours	40 hours
<b>Annual limit on use</b>	40 hours	Law sets no limit on use.
<b>When does employee become eligible to use accrued time?</b>	180 <sup>th</sup> day after hire	90 <sup>th</sup> calendar day after hire
<b>Reasons for use</b>	Various reasons related to health, safety, and some kinds of family care.	Differences: <ul style="list-style-type: none"> <li>• I-1433 does not include bereavement</li> <li>• School closures by public official are not covered by I-1433 unless for health reasons</li> <li>• I-1433 does include siblings and grandchildren as covered family members.</li> </ul>
<b>Rehires &amp; leave balances</b>	Must reinstate paid leave benefits when rehired within six months and within the same benefit year.	Must reinstate when rehired within 12 months.
<b>Payout of unused leave</b>	Not required.	Not required.
<b>Can employers require employees to provide documentation when using leave?</b>	Yes, but must currently accept a personal statement.	For absences exceeding three days, “if not an unreasonable burden”



<p><b>Employees exempted</b></p>	<p>City ordinance exempts government employers, employees covered by work study agreements.</p>	<p>Salaried workers and outside salespersons are exempted: The law uses the state’s minimum wage definition of employee, which has broad exemptions for workers “employed in a bona fide executive, administrative, or professional capacity” (e.g., Overtime-exempt/salaried employees) or classified as an “outside salesperson.” Specifically does apply to “individual providers” (defined by RCW 74.39A.240(s)) paid by the state.</p>
<p><b>Enforcement</b></p>	<p><b>Workplace-wide investigations.</b>  Workplace-wide investigations are conducted in all cases except instances of individual retaliation. Non-disclosure of witness identity offered when complainant fears harm to personal property (e.g., lost job or wages). Remedies include restoration of hours/wages owed to all employees at the worksite + possible civil penalty. Have the authority to revoke business license in egregious situations. No right to private action.</p>	<p><b>Individual Investigations.</b>  L&amp;I plans to maintain their current practice: Individual investigations into amounts owed to complainants only. Non-disclosure is not offered. Private action and/or workplace wide investigations are available options, but they are very rarely used.</p>
<p><b>CBA Waiver</b></p>	<p>City code allows employees to explicitly waive their right to paid leave in a Collective Bargaining Agreement.</p>	<p>I-1433 does not include mention of a CBA waiver. While the State is currently finalizing their rules, CBA waivers are unlikely to be included as the law does not permit “any agreement between such employee and the employer allowing the employee to receive less than what is due” under state law. This same language could limit the City’s ability to retain 100% of its flexible policy options.</p>



**ATTACHMENT 3: EMPLOYMENT STANDARDS ENFORCEMENT OVERVIEW**

**EMPLOYMENT STANDARDS OVERVIEW**  
*Enforcement totals through July 2017*

Employees receiving owed Leave/Wages	Total Value of Recovered Leave/Wages	Paid Leave Hours Recovered	Value of Recovered Paid Leave Hours	Back pay recovered for Minimum Wage
595	\$168,927	8,890	\$158,557	\$10,371

*NOTE: Does not include impacts resulting from voluntary compliance.*

**Employment Standards Case Snapshot**

	Notifications Received	Closed: No Jurisdiction	Resolved: Courtesy Letter	Resolved: Withdrawn	Resolved: No Violation	Resolved: Settlement Agreement
<b>Total</b>	<b>61</b>	5	7	6	7	27
<b>Total Resolved</b>	<b>52</b>					
<b>Total In Process</b>	<b>9</b>					

*Of the 61 notifications, roughly 52% were PL only, 25% were PL&MW, and 23% were MW only.*

**Impacts on the rise**

At the time of the GPFC presentation, City of Tacoma employment standards investigations had resulted in just over \$38,000 worth of owed wages/leave being returned to 287 workers. Those numbers have increased greatly, with \$168,927 being returned to 595 workers as of July 2017. Increases in the amounts being returned to workers are predicted to continue for two reasons:

1. **The first reason is purely mathematical.** Many employers found in violation have been failing to follow the law since February 1, 2016. As the number of months in violation increases, the amount of back pay or leave owed to workers will also increase.
2. **Trust is an essential piece of effective enforcement.** As mentioned in Attachment 1, Complaint-based investigations rely on a witness being willing to come forward and report violations. City staff are working with community partners to strategically to build this kind of trust with workers.



**ATTACHMENT 4: EDUCATION, OUTREACH, & COMMUNITY PARTNERSHIPS**

**EDUCATION & SUPPORT:**  
*Employer & Worker Inquiries through June 2017*

Paid Leave	Minimum Wage	Total
957	121	1078

NOTE: Only includes contacts received by phone, email, TF311. Does not capture outreach/education efforts.

**COMMUNITY PRESENTATIONS & OUTREACH EVENTS**  
*2015 - Present*

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**WE HAVE NOT DONE THIS WORK ALONE**

Community Partnerships have been essential to outreach, education, and trust building efforts. In the course of this work, we have relied deeply on local collaboration. In addition to utilizing a number of advertising outlets, we partnered with more than 164 community organizations and local businesses on public education. Tacoma’s innovative, community-based approach to outreach and trust building is a key part of what led to Tacoma becoming a national model for paid sick leave implementation.

The threat of civil penalties or the possibility of job loss can make it difficult for businesses with questions to come forward. By working with trade organizations and business leaders, staff have been building a positive reputation within the business community and sharing the word that Tacoma’s employment standards hotline offers one-on-one support for employers.





**ATTACHMENT 5: Equity Impact Statement from the Office of Equity & Human Rights (OEHR)**

The City of Tacoma is committed to equitable service delivery to all residents and supporting human rights and opportunities for everyone to achieve their full potential. The City's Employment Standards' workplace wide enforcement model is an exemplary standard of what can be achieved when making purposeful and intentional equitable decisions. While individual complaint based investigations are vital and serve their purpose, work place wide investigation provides the City of Tacoma another alternative: the ability to reach everyone in the workplace and not limit service to only the few who bring a complaint forward. Individual complaint-based models tend to serve only those who are trusting of government and have a clear understanding of the law. Tacoma's model addresses the institutional inequities for those who do not feel empowered to expect and/or request what is permitted to them by law.

By retaining the current workplace wide enforcement model, the City is able to both protect and serve underrepresented individuals (those who specifically complain) and be able to identify and eliminate underlying drivers within Tacoma that perpetuate racial and socio-economic inequity. The City's Office of Equity and Human Rights (OEHR) is committed to assisting all departments as they develop sustainable methods to build capacity in achieving equitable outcomes and services. The critical test of equitable service delivery is that services are designed in a way that works for the public in its entirety, not just a certain few. Workplace wide enforcement of work standards helps to create a work environment free of discrimination and assists in the OEHR's enforcement of Tacoma Municipal Code 1.29.



## **ATTACHMENT 6: SUMMARY OF PRIMARY CHANGES IN TMC 18.10 “PAID LEAVE”**

### **Chapter Title**

- Chapter title changed to “Paid Sick Leave” to align with state law and to avoid confusion with paid family leave and other kinds of time off.

### **18.10.10 – Definitions**

- Clarifications of existing terms.
- Updates to align with state law, including:
  1. Sibling & Grandchild added to definition of family
  2. Government employers are not exempt from definition of employer
  3. Align hourly rate of pay with State regulations

### **18.10.020 – Accrual**

Edits have been made to create alignment with State law:

- Removed 24 hour cap on accrual
- Adapted Premium Pay Program requirements to meet state requirements
- Accrued leave will be reinstated for employees rehired within 12 months
- Frontloading language aligned with State rules

### **18.10.030 – Use**

- Various edits made to add greater clarity.
- Language related to shifts of indeterminate length was moved from the rules to TMC 18.10.
- Various edits have been made to create alignment with State law, including:
  1. Employees are eligible to use their leave 90 days after hire.
  2. Employees can carry over of up to 40 hours of leave to a subsequent year.
  3. Leave can be used in the case of all health-related worksite closures.
  4. Employers can require documentation for absences exceeding 3 days.
  5. Increment of use will be guided by State WAC.

### **18.10.040 – Retaliation Prohibited**

No amendments were made.

### **18.10.050 – Notice & Posting**

Minor edits to provide clarity and align with enforcement practices.





**18.10.060 – Employer Responsibilities**

- Gives investigators the ability to request witness names and contact information.
- Language related to successor employer was moved from the rules to TMC 18.10.

**18.10.070 – Enforcement**

- Continues to mandate efforts to conciliate and settle by agreement before filing a charge when an employer has failed to comply due to reasonable cause, but provides the ability to file a charge immediate for more egregious offenses, such as willful, repeat violators.
- Adds State language related to investigative authority.
- Minor edits to provide clarity and align with current enforcement practices.

**18.10.080 – Effective Date**

Updated to reflect January 1, 2018.

**18.10.090 – Waiver**

It is not clear whether CBA will be permitted under state law; this section is written to allow waivers to be used if permitted by state law while retaining existing conditions for these waivers.

**18.10.100 – Severability**

No amendments.



**ATTACHMENT 7: EMPLOYMENT STANDARDS CASE DATA (through July 2017)**

**KEY**  
 CMP = Complainant  
 EE = Employees  
 Notice = Workplace Poster  
 Notification = Info on Paid Leave Hours Accrued  
 MW = Minimum Wage  
 Peer-to-Peer = Business Complaint  
 PL = Paid Leave  
 W/D = Withdrawn  
 \* = Case is open  
 \*\* = Workplace size is a new data point as of 2016, and complete data is not available.

Case	Type	Resolution Type	Impetus	# of CMP	# of CMP who received \$ remedy	Workplace Size**	#EE who Received \$ Remedy	# Banked Leave Hours Restored	Value of Restored Banked Leave	# Leave Hours Paid Out	Value of Hours Paid	Back Wages Paid	Total Financial Value of Remedy	Amount Paid to CMP	Other Remedy
1	200000000	PLMW	Settlement Agreement	Worker CMP	1	1	32	32	85	\$879		\$865	\$1,745	\$7	Notice, Notification, Supervisor Training
2	200000010	PL	Courtesy Letter	Worker CMP	1		Unknown								NA
3	200000011	PLMW	No Case - No jurisdiction	Worker CMP	1		Unknown								NA
4	200000012	MW	No Violation	Worker CMP	1		Unknown								NA
5	200000020	PL	Settlement Agreement	Worker CMP	2	2	Unknown	124	228	\$4,424			\$4,424	\$71	Notice, Notification, Policy change
6	200000021	PLMW	Courtesy Letter	Worker CMP	1		Unknown								NA
7	200000022	MW	No Case - Untimely	Worker CMP	1		Unknown								NA
8	200000030	PLMW	Settlement Agreement	Worker CMP	1	1	8	8	38	\$393		\$660	\$1,053	\$184	Notice, Notification
9	200000031	MW	Settlement Agreement	Worker CMP	1	1	25	1				\$12	\$12	\$12	Notice, Notification
10	200000040	PLMW	Settlement Agreement	Worker CMP	2	2	5	4	22	\$228			\$228	\$114	Notice, Notification, Wage Monitoring, Training
11	200000050	PLMW	Settlement Agreement	Worker CMP	1	1	30	9	216	\$2,236			\$2,236	\$248	Notice, Notification, Policy change, Training
12	200000060	MW	Courtesy Letter	Worker CMP	1		Unknown								NA
13	200000061	MW	W/D - CMP non-responsive	Worker CMP	1		Unknown								NA
14	200000070	PL	W/D - CMP non-responsive	Worker CMP	1		1510								NA
15	200000071	PL	Settlement Agreement	Worker CMP	1		12								Notice,
16	200000072	PL	Settlement Agreement	Peer-to-Peer	0		20								Notice,
17	200000080	PL	Settlement Agreement	Peer-to-Peer	0		1	3	14	\$156			\$156	NA	Notice,
18	200000090	PL	W/D - CMP non-responsive	Worker CMP	1		1								NA
19	200000100	PLMW	Courtesy Letter	Worker CMP	1		Unknown								NA
20	200000101	PLMW	W/D - CMP non-responsive	Worker CMP	1		Unknown								NA
21	200000110	PL	W/D - CMP non-responsive	Worker CMP	1		10								NA
22	200000111	MW	No Case - No jurisdiction	Worker CMP	1		Unknown								NA
23	200000112	PLMW	Settlement Agreement	Worker CMP	1		5								Notice,
24	200000120	PLMW	Courtesy Letter	Worker CMP	1		45								NA
25	200000130	MW	CMP W/D to file w/ L&I	Worker CMP	1		1								NA
26	200000131	MW	No Violation	Worker CMP	1		50								NA
27	200000132	PL	No Violation	Worker CMP	1		25								NA
28	200000140	PL	Settlement Agreement	Worker CMP	1		12								Policy change
29	200000150	PLMW	Settlement Agreement	Anonymous CMP	1	Unknown	4	6			38	\$624	\$624	Unknown	Notice, Notification
30	200000160	PL	Settlement Agreement	Worker CMP	1		25								Policy change
31	200000161	PL	Settlement Agreement	Peer-to-Peer	0		15	19		315	\$3,519	\$108	\$3,627	NA	Notice,
32	200000170	PL	No Violation	Worker CMP	1		126								NA
33	200000180	PL	No Violation	Worker CMP	1		184								NA
34	200000190	PL	Settlement Agreement	Public Publication	0		17	20	45	\$540	337	\$5,999	\$6,539	NA	Notice, Notification, Training
35	200000200	PL	Settlement Agreement	Worker CMP	1	1	362	113	3745	\$86,704	116	\$2,727	\$89,431	\$1,128	Notice, Policy Changes, Training
36	200000210	PL	Settlement Agreement	Worker CMP	2		302								Policy change
37	200000220	PLMW	W/D - Duplicate	Peer-to-Peer	0		15								NA



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38	200000230	PLMW	Settlement Agreement	Worker CMP	1	1	6	13			145	\$1,634	\$623	\$2,257	\$191	Notice,
39	200000231	PL	Settlement Agreement	Worker CMP	1	1	17	18			423	\$10,244		\$10,244	\$616	Policy/CBA
40	200000232	PLMW	No Case - No jurisdiction	Worker CMP	1		Unknown									NA
41	200000250	PL	Settlement Agreement	Worker CMP	1	1	17	8	17	\$480	86	\$2,459		\$2,939	\$260	Notice,
42	200000260	MW	Settlement Agreement	Worker CMP	1	1	11	16					\$87	\$87	\$8	None except future compliance
43	200000270	PL	Settlement Agreement	Worker CMP	1	0	57	57	684	\$8,373	155	\$1,899	\$0	\$10,272	\$0	Notice,
44	200000280	PL	Settlement Agreement	Worker CMP	1	1	25	2			14	\$701		\$701	\$611	Policy change
45	200000281	PL	Settlement Agreement	Worker CMP	1	1	7	4	96	\$1,070	96	\$1,070		\$2,140	\$267	Notice,
46	200000291	MW	Settlement Agreement	Worker CMP	2	2	44	44					\$7,552	\$7,552	\$408	None except future compliance
47	200000292	PL	No Case - No jurisdiction	Worker CMP	1		Unknown									NA
48	200000300	PL	Settlement Agreement	Worker CMP	1	1	30	79	532	\$6,213	1443	\$15,986		\$22,199	\$397	Notification, Training
49	200000310	MW	No Violation	Worker CMP	1		14									NA
50	200000320	MW	Settlement Agreement	Worker CMP	1	1	Unknown	1					\$122	\$122	\$122	Future compliance
51	200000330	MW	Settlement Agreement	Worker CMP	1	1	20	14					\$341	\$341	\$27	None except future compliance
52	200000340	PL	No Violation	Worker CMP	1		Unknown									NA
53	200000360	MW	No Violation	Public Publication	0		Unknown									Referred to Auditors:
54	200000201*	PL	NA - Open / Pending	Worker CMP	1		402									Change in practices, Training
55	200000240*	PL	NA - Open / Pending	Worker CMP	1		1510									
56	200000261*	PL	NA - Open / Pending	Worker CMP	1											
57	200000282*	PL	NA - Open / Pending	Worker CMP	1		50									
58	200000290*	PL	NA - Open / Pending	Worker CMP	1											
59	200000331*	PLMW	NA - Open / Pending	Worker CMP	1		18									
60	200000332*	PL	NA - Open / Pending	Worker CMP	1											
61	200000350*	PL	NA - Open / Pending	Worker CMP	1		5									
					59	20	5075	595	5722	\$111,696	3,168	\$46,861	\$10,371	\$168,927	\$4,672	

Proportion of workers paid out who were complainants: 3.36%  
 Proportion of total remedies paid to complainants: 2.77%